IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8508 of 1992

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

BUDABHAI KALIDAS VASAVA

Appearance:

MR PR JOSHI AGP for Petitioner

MR JD AJMERA for Respondent No. 1

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 06/10/2000

ORAL JUDGEMENT

Heard the learned advocates. The petitioner before this court is the State Government and challenges the judgment and Award dated 5th May, 1992, passed by the Presiding Officer, Labour Court, Bharuch, in Reference (LCB) No. 74/87, re-numbered as Reference (LCB) No.

156/90. It appears that the Government failed to appear before the Labour Court and todefend the claim made by the applicant-workman. The Award, therefore, has been made in absence of the State Government. Feeling aggrieved, the State Government had preferred Misc. Application No.16/92 requesting the Labour Court to set aside ex parte the Award of 5th May, 1992, and to hear the matter on merits. The said application was rejected by the Labour Court on 21st September, 1992.

On the facts and in the circumstances of the case, the petition is allowed. The impugned judgment and Award dated 5th May, 1992, passed in Reference (LCB) No. 74/87, re-numbered as Reference (LCB) No. 156/90 by the Labour Court, Bharuch, is quashed and set aside. The said Reference is remanded to the Labour Court, Bharuch, for hearing on merits on condition that -

(a) the petitioner shall, within a period of two months from today, pay a sum of Rs.10,000/- to the respondent-workman towards the back wages. In the event of the workman succeeding in the Reference hereafter, and in case the workman is awarded back wages, the aforesaid sum of Rs.10,000/- shall be adjusted against the amount of back wages/compensation which may become due and payable to the workman. However, in case, the workman loses in the Reference, the aforesaid sum of Rs.10,000/- shall not be refundable.

(b) the petitioner shall, within a period of two months from today, pay a sum of Rs.5000/- to the respondent-workman by way of costs of this petition.

(c) the petitioner shall attend the Reference scrupulously and shall not ask for any avoidable adjournment.

The parties shall be at liberty to move the Labour Court for expeditious hearing. Rule is made absolute to the above extent.

[Miss R.M Doshit, J.]

JOSHI